

**UNITED STATES PATENT & TRADEMARK OFFICE**  
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REQUEST FOR PATENT FEE REFUND			
1 Date of Request: <u>6/23/05</u>		2 Serial/Patent # <u>10/615703</u>	
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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 00-387-P)

In re Application of: )  
Benkovic et al. )  
Serial No.: 10/615,703 ) Group Art Unit: 1623  
Filing Date: July 9, 2003 ) Examiner: TBD  
For: Treatment of Bacterial Induced Diseases )  
Using DNA Methyl Transferase Inhibitors )

Mail Stop PETITIONS  
Commissioner for Patents  
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Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF  
PETITION UNDER 37 C.F.R. 1.47(a)**

Dear Sir:

Pursuant to 37 C.F.R. § 1.47(a) and the Decision on Petition, mailed April 11, 2005, Applicants respectfully request the Office to permit the signing inventors Dr. Stephen J. Benkovic ("Dr. Benkovic"), Dr. Lucy Shapiro ("Dr. Shapiro"), Dr. Craig Stephens ("Dr. Stephens"), Dr. Lyn Sue Kahng ("Dr. Kahng"), Dr. Anthony Berdis ("Dr. Berdis") and Dr. Irene Lee ("Dr. Lee"), to make application on behalf of themselves and co-inventor Dr. Rachel Wright ("Dr. Wright"), who cannot be reached despite diligent and persistent efforts to locate her.

In support of this Petition, Applicants submit herewith the Declaration of Kevin E. Noonan, Applicants' representative for the above-captioned application. Dr. Noonan attests in his declaration that the named inventors, including Dr. Wright, are also inventors of related applications, including priority International Patent Application Serial No. PCT/US97/16593, published March 26, 1998 having Publication No. WO 98/12206, and U.S. patent application Serial No. 09/269,137, which is a '371 national phase filing of PCT/US97/16593. Dr. Benkovic, Dr. Shapiro, Dr. Wright, Dr. Stephens, Dr. Kahng, Dr. Berdis and Dr. Lee also executed a Declaration for Patent Application for application 09/269,137, which issued as US Patent 6,413,751 on July 2, 2002.

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These are the efforts undertaken by Applicants or their representative in locating Dr. Wright. Applicants respectfully contend that these efforts were diligent, and that they have fulfilled the requirements of 37 C.F.R. §1.47(a).

Applicants submit herewith a combined Declaration and Power of Attorney shown in Exhibit F that includes an empty signature block for Dr. Wright. Applicants believe that this satisfies the requirement of 37 C.F.R. § 1.47(a) that all the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR §§ 1.63 or 1.175 and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR § 1.64. See M.P.E.P § 409.03(a)(A), which states "An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated."

Applicants pray that their Petition is granted. Assignees Penn State Research Foundation and The Board of Trustees of Leland Stanford Jr. University will suffer irreparable harm if not allowed to apply for a patent for the above-listed Application because that the United States Patent and Trademark Office will otherwise hold the present Application abandoned without an executed Oath or Declaration.

Pursuant to 37 C.F.R. §§ 1.47(a) and 1.17(h), Applicants hereby authorize the United States Patent and Trademark Office to charge to account number 13-2490 the petition fee of \$130, and any other required fees.

Respectfully submitted

**McDONNELL BOEHNEN  
HULBERT & BERGHOFF LLP**

By:

Kevin E. Noonan  
Reg. No. 35,303

Date: June 13th, 2005